

Application Serial No. 10/687,568
Response dated December 21, 2006
Response to Office Action dated August 1, 2006

REMARKS

Claims 32-43 and 50-65 are currently pending in the present application. Claim 32 has been amended herein to recite that the injector device is for a medical device. No new matter has been added.

I. Interview Summary

Applicants kindly thank the Examiner for the opportunity to discuss the issues in this case.

A telephonic interview was held on October 31, 2006 with Examiner Han and Heidi Dare. No exhibit was shown and no demonstration was conducted. Reference U.S. 6,093,172 to Funderburke was discussed. Applicants agreed to file a response in writing.

II. Claim Rejections Under 35 U.S.C. § 103(a)

Claims 55-65 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over by U.S. Patent No. 6, 093,172 to Funderburk in view of U.S. Patent No. 5,643,214 to Marshall. According to the Examiner, Funderburk discloses an injector device having a housing 28/38, lock 58, drive 36, flexible plastic members 56/94, plunger 54, needle 12, tubing and recess 100. Marshall discloses a cover 30. As stated by the Examiner, it would have been obvious to one of ordinary skill in the art to modify the invention of Funderburk by including a cover, as suggested by Marshall, in order to maintain the sterility of the device.

Applicants respectfully traverse the rejection based on Funderburk in view of Marshall. Applicants further would like to clarify that claim 55 does not require that the cover serves to maintain the sterility of the device. While in some aspects of the present invention the cover may be adapted to ensure sterility of the device, claim 55 is not so limited. Applicants respectfully request reconsideration of rejected claims 55-65 in light of the traversal discussed below.

Applicants respectfully traverse the Examiner's rejection based on Funderburk in view of Marshall since the references alone or in combination fail to teach or suggest an

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injection device including a molded device housing wherein the **housing** is manually deformable to effect release of the plunger.

Furthermore, Applicants respectfully assert that there is no suggestion in either reference to combine the cover of Marshall with the injector device of Funderburk as required by § 103.

Even if the teachings of Funderburk and Marshall could be combined, all of the recited elements in Applicants' rejected claims would not be found in the combination.

Funderburk is directed to an injector for placement of an infusion set. (Abstract.) As described in the specification, the element 38 is a trigger button of the actuator assembly 34 that is **mounted on** the rear end of the barrel 28. (See Col. 5, lines 52-58.) The trigger button 38 is separate from and does not form part of the barrel 28. As discussed,

"The rearmost end of the actuator pin 72 defines the trigger button 38." As shown in FIGS. 11 and 13, the trigger button 38 can be depressed with a fingertip to move the actuator pin 72 through a short stroke against the return spring 86 in a direction toward the trigger fingers 58 together at the rear end of the plunger 30. As best shown in FIG. 13, the actuator pin 72 has a hollowed cylindrical forward tip 88 with a diametric size for engaging and squeezing the fingers 58 together at the rear end of the plunger, in a manner enabling those trigger fingers 58 to pass back through the tapered conical latch bore 68. As soon as the trigger fingers 58 thus release from engagement with the shoulder 70 on the support cap 60, the drive spring 36 translates the plunger 30 with the insertion set 14 thereon with a rapid and controlled force and speed toward the advanced position, resulting in transcutaneous placement of the needle 12 and cannula 25." (See Col. 7, lines 25-41.)

The Funderburk reference teaches trigger fingers 58 that are squeezed together upon depression of the trigger button 38. The trigger fingers 58 are deformed not the barrel 28 upon which the trigger button 38 is mounted. Funderburk does not teach or suggest that the **housing**, i.e. barrel 28 and sleeve 80, is deformable itself. In addition, Funderburk does not teach or suggest that manual deformation of the **housing** can bring about release of the plunger.

Marshall is directed to an injection device for ejecting a sequence of doses from the needle of a capsule carried within its barrel-like body. (Abstract.) Near the rear end of the tube 3 there is a release mechanism 26. This comprises two diametrically opposed pads

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27 located within apertures in the tube 3 and connected by resilient, flexible webs 28 which spread to embrace the tube 23. (Col. 3, lines 20-24.) For injection, the pads 27 are squeezed. Marshall teaches a release pads 27 that are deformed to effect release of a spring 29 for injection of doses from the needle. Marshall does not teach or suggest that the **housing**, i.e. tube 3, is itself deformable, nor does Marshall teach or suggest that manual deformation of the **housing** can bring about release of the plunger.

In contrast, Applicants claimed invention in claims 55-65 require a device housing that itself is manually deformable to effect release of the plunger. As discussed above, Funderburk fails to teach or suggest a device housing that itself is manually deformable to effect release of the plunger and Marshall cannot make up the deficiencies of Funderburk. Together or individually, Funderburk and Marshall fail to teach or suggest the claimed invention in claims 55-65.

Therefore, Applicants respectfully request that the rejection of claims 55-65 under 35 U.S.C. §103(a) be withdrawn.

III. Allowable Subject Matter

Applicants kindly thank the Examiner for indicating that claims 32-43 and 50-54 are allowed.

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IV. SUMMARY

It is respectfully asserted that the claims properly define the invention and that the invention is both novel and non-obvious. Allowance of the present claims is earnestly solicited.

Should the Examiner wish to discuss any of the above submissions in more detail, the Examiner is asked to please call the undersigned at the telephone number listed below.

Respectfully submitted,


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